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From: Bowman, Liz
Sent: Fri 5/12/2017 1:22:07 AM
Subject: UPDATED: Final Release on Pebble Settlement

Please use this version, which includes small edits I just got from DOJ.

EPA AND PEBBLE LIMITED PARTNERSHIP REACH SETTLEMENT AGREEMENT

EPA Agrees to Allow Permit Process to Proceed; Pebble Agrees to Drop Lawsuits

WASHINGTON --The U.S. Environmental Protection Agency entered into a settlement agreement with the Pebble Limited Partnership to resolve litigation from 2014 relating to EPA's prior work in the Bristol Bay watershed in Alaska. The settlement provides the Pebble Limited Partnership (Pebble) an opportunity to apply for a Clean Water Act (CWA) permit from the U.S. Army Corps of Engineers before EPA may move forward with its CWA process to specify limits on the disposal of certain material in connection with the potential "Pebble Mine."

"We are committed to due process and the rule of law, and regulations that are 'regular,'" said EPA Administrator Scott Pruitt. "We understand how much the community cares about this issue, with passionate advocates on all sides. Today's agreement will not guarantee or prejudice a particular outcome, but will provide Pebble a fair process for their permit application and help steer EPA away from costly and time-consuming litigation. We are committed to listening to all voices as this process unfolds."

Key Terms of the Settlement:

- Pebble and the U.S. Department of Justice (on behalf of the EPA) will ask the U.S. District Court for the District of Alaska to dismiss the cases with prejudice and to lift the court-ordered preliminary injunction.

- EPA agrees to commence a process to propose to withdraw the currently pending proposed determination, consistent with its regulations.
- EPA agrees that it will not move to the next step in its CWA process, which would be to issue a recommended determination (determination steps are: proposed, recommended, final), until 48 months from settlement or until the U.S. Army Corps of Engineers issues its final environmental impact statement, whichever comes first. To take advantage of this period of forbearance, Pebble would have to file its permit application within 30 months.
- Pebble will drop its lawsuits and requests for fees against EPA, and agree to file no new Freedom of Information Act (FOIA) requests during the pendency of the "forbearance" period.
- EPA may use its scientific assessment regarding the Bristol Bay Watershed without limitation.

Background:

In 2014, under the previous administration, EPA's Region 10 completed a multi-year watershed assessment in Bristol Bay, and then initiated a CWA Section 404(c) proposed determination, which described restrictions on large-scale mining in the watershed. Section 404 is the part of the CWA that governs the permit evaluation process for actions that discharge dredged or fill material into a covered water.

The May 11, 2017 settlement does not guarantee or prejudice any particular outcome to this process, but does ensure that the process will be carried out in a fair, transparent, deliberate, and regular way.

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From: Bowman, Liz

Sent: Thursday, May 11, 2017 7:49 PM

To: Jackson, Ryan <jackson.ryan@epa.gov>; Samantha Dravis (dravis.samantha@epa.gov) <dravis.samantha@epa.gov>; Schwab, Justin <schwab.justin@epa.gov>; David Fotouhi (fotouhi.david@epa.gov) <fotouhi.david@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>; JP (freire.jp@epa.gov) <freire.jp@epa.gov>; Graham, Amy

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Subject: Final Release on Pebble Settlement

Below, please find the final Pebble settlement press release, which incorporates the edits received from DOJ (which took the release from easily-understood English to legal-speak – ha, sorry!). We aren't going to do a joint release with them, but will plan to put this out in the morning. Last I heard, **6:30 a.m. Eastern was the time of release**, but I am waiting for DOJ to confirm the release time. Thank you – Liz, 202-309-3416

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